IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

FAO.No. 110 of 2007()

AGAINST THE ORDER DATED 13/12/2006 IN IA 1450/2006 IN OS.34/2006 of PRL.S.C.,THALASSERY

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: APPELLANT/PETITIONERS/DEFENDANTS 1 & 2

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1. KOLANGARAKANDY RANDUPURAYIL RUKHIYA,
D/O.KUNHATHU, LATHEEF COTTAGE, KOLARI AMSOM,
PARIYARAM DESOM, P.O.KOLARI.

2. V.C.KAMAL, S/O.KUNHAMMED HAJI,
LATHEEF COTTAGE, KOLARI AMSOM, PARIYARAM DESOM,
P.O.KOLARI.

BY ADV. SRI.K.ABDUL JAWAD

RESPONDENTS: PLAINTIFF

P.R.JAFFER HAJI, S/O.MANHU,
KOLARI AMSOM, KALLUR DESOM, PO KOLARI,
THALASSERY TALUK.

BY ADV. T.A.RAMADASAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

F.A.O.No.110 of 2007

Dated 29th May, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the order dated 13.12.2006 in I.A.1450/06 in O.S.34/06 on the file of the Sub Court, Thalassery, whereby the court below declined to allow a petition filed under Order IX Rule 13 of the Code of Civil Procedure. According to the appellants, the written statement was filed along with a petition for enlargement of time. Apparently the court below was not satisfied as to the reasons for the delay. After having extensively heard the counsel on both sides, we are of the view that it is only in the interests of justice, particularly taking note of the fact that immediately after the expiry of 90 days the written statement was filed, that the appellants are given an opportunity to defend their case on merits, by putting them on terms. Accordingly, we set aside the order dated 13.12.2006 in I.A.1450/06 and allow the appeal. The ex parte decree in O.S.34/2006 is also set aside. The parties will appear before the court below on 7.7.2007. The suit shall be disposed of within another six months. The appellants shall pay

an amount of Rs.2,500/- to the respondent through the counsel appearing for the respondent, within one month and the memo will be produced before the court below on 7.7.2007.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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KURIAN JOSEPH &

T.R.RAMACHANDRAN NAIR, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 29th May, 2007.